S.B. Civil Writ Petition No.6104/03
Harlal Singh Vs. State & Ors.

Date of Order : 22/03/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Hanuman Choudhary, for petitioner
Mr. B.K. Sharma, Dy.G.A.

With the consent of parties, the writ petition is finally heard and disposed of at the stage of admission.

Instant petition has been filed for seeking appointment on the post of Senior Teacher [English] in pursuant to advertisement issued by the respondents dt.18th August, 2003 [Ann.1].

The petitioner is member of OBC and it is not disputed that he is eligible for the post of Senior Teacher [English]. The post of Senior Teacher was advertised by the respondents vide advertisement dt.18th August, 2003. In all, 120 vacancies were advertised, out of which 25 vacancies were reserved for OBC candidates. The petitioner also participated in the process of selection and after assessing his merit, he secured 71.53% of marks.

The main contention of counsel for petitioner is that in terms of scheme circulated by the respondents, he was entitled for 5 bonus marks for three years of teaching experience which he has acquired on account of teaching in the aided recognized institution, which was not considered by the respondents while preparing his merit. In the absence of which, he could not be considered for appointment. Counsel further submits that if he gets the benefit of 5 bonus marks in terms of scheme, his percentage of marks will come to 76.53 and persons lower in the order of merit even in general category were considered for appointment.

Respondents have filed reply to the writ petition and it has not been disputed that the petitioner holds experience of aided recognized institution, but according to the respondents since the post against which he had worked, was not aided post in the institution, as such he was not entitled for 5 bonus marks and accordingly, no error was committed in computing his merit and no person lower in the order of merit as assessed in the category of OBC has been considered for appointment.

I have considered the submission made by the parties and perused the material on record.

This fact has not been disputed by the respondents that the petitioner was appointed as Tea cher Gr.III in a recognized aided institution vide order dt.3rd August, 1999 and worked from 4th August, 1999 to 16th May, 2002, as such for three academic session he rendered service in aided recognized institution. The petitioner is otherwise eligible and fulfills all the conditions for appointment on the post of Senior Teacher. There is no documentary evidence on record to show that the post held by the petitioner was not aided post and apart from it, if an incumbent had worked in the aided recognized institution, in my opinion, no distinction can be made with regard to post held by the incumbent since it is for the institution to give appointment against the sanctioned post which is not in the domain of incumbent concerned. Taking note of 5 bonus marks for experience of three academic session, his percentage comes to 76.53 and in view of his merit being revised he became entitled for consideration for appointment on the basis of merit list prepared in pursuant to advertisement dt. 18th August, 2003.

Consequently, the writ petition stands allowed and the respondents are directed to consider his candidature after giving him the benefit of 5 bonus marks and after revising his merit, if any person lower in the order of merit has been considered for appointment, the petitioner be also given appointment on the post of Senior Teacher [English] as per his merit in terms of advertisement dt. 18th August, 2003. The above exercise be completed within a period of three months. No costs.

[Ajay Rastogi],J.

FRB